

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

UNITED STATES OF AMERICA

v.

RAY WALLACE METTETAL.

CRIMINAL ACTION NO. 3:96-CR-50034

ORDER

JUDGE NORMAN K. MOON

Defendant Ray Wallace Mettetal, *pro se*, comes before the court to appeal the Magistrate Judge's order (docket no. 352) granting in part and denying in part the government's motion to destroy evidence. (docket no. 345). As the parties have not requested a hearing, the matter is ripe for decision. In particular, Mettetal objects to the Magistrate Judge's determination that the government is permitted to destroy, and he is not entitled to reclaim for animal testing, evidence known as "Item #18," which the government has identified as ricin. This court has already determined that (1) Item #18 is in fact ricin; (2) ricin is *per se* contraband; (3) Mettetal is not entitled to employ animal testing on Item #18; and (4) Mettetal is not entitled to its return pursuant to Rule 41(g). *United States v. Mettetal*, No. 3:96-cr-50034, 2006 WL 1195777 (W.D. Va. May. 3, 2006), *aff'd* *United States v. Mettetal*, 220 Fed. App'x 200 (4th Cir. 2007), *cert denied* *Mettetal v. United States*, 552 U.S. 892 (2007). The Magistrate Judge was correct to observe that "the conclusions reached . . . in the former proceedings equally apply today." Accordingly, the order is hereby AFFIRMED.

The Clerk of the Court is directed to send a certified copy of this order to Mettetal and all counsel of record.

Entered this 2nd day of March, 2011.


NORMAN K. MOON
UNITED STATES DISTRICT JUDGE